

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff)	
)	
v.)	Civil No. 05-10401-RCL
)	
)	
DELIA J. BAEZ,)	
Defendant)	
_____)	

APPLICATION FOR ENTRY OF DEFAULT

Plaintiff United States of America hereby applies, pursuant to Rule 55(a), Federal Rules of Civil Procedure, for entry of default against defendant Delia J. Baez.

1. This is an action brought pursuant to the False Claims Act, 31 U.S.C. § 3729 *et seq.*, and under the common law for fraud, unjust enrichment, and payment by mistake of fact.

2. This action was commenced on March 2, 2005. The Court entered a Default against Baez, August 18, 2005, because no Answer had been filed. The Court granted Baez' Motion to Remove Default on October 3, 2005, and Baez filed an Answer of general denial. Baez did not appear for the Scheduling Conference, held on November 3, 2005, and did not take discovery in the case.

3. The government filed and served a Motion for Summary Judgment on January 17, 2006. Pursuant to Local Rule 7.1, Baez had fourteen days to file an opposition to the motion. Baez filed no opposition and did not request additional time to file. On February 21, 2006, counsel for the government left a message on Baez' counsel's personal telephone line indicating that she intended to file a motion for entry of default and asking for his position on such a

motion. He did not return the telephone call.

4. Through her false statements, Baez succeeded in obtaining \$71,932.40 in government benefits to which she was not entitled. See United States' Memorandum for Summary Judgment at 18. The False Claims Act, 31 U.S.C. § 3729(a), provides for assessment of three times the amount of damages that the government has sustained. See United States' Memorandum at 7. The benefits that Baez obtained were damages to the government, and three times those damages is \$215,797.50. See United States' Memorandum at 18. In addition, Baez is also liable for civil penalties of \$5000 to \$10,000 for each false claim that she submitted. See United States' Memorandum at 7. Because of the brazen and exploitative nature of Baez' conduct, the government requests that this Court assess her \$10,000 for each of 22 claims, and accordingly, enter default against her for the total amount of \$ 435,797.50. See United States' Memorandum at 19.

4. This Application is supported by the Declaration of Anita Johnson.

WHEREFORE, the plaintiff respectfully requests that default in the amount of \$ 435,797.50 be entered against Baez.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

/s/ Anita Johnson
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Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to William Keefe, counsel for Baez, 390 Center Street, Jamaica Plain, MA 02130, on this 28th day of February, 2006.

/s/ Anita Johnson